

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By **VICE CHAIRMAN BOB LAWSON**, on February 5, 2001
at 3:10 P.M., in Room 137B Capitol.

ROLL CALL

Members Present:

Rep. Gay Ann Masolo, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Bob Lawson, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Verdell Jackson (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Jeff Mangan (D)
Rep. Joe McKenney (R)
Rep. John Musgrove (D)
Rep. Alan Olson (R)
Rep. Ken Peterson (R)
Rep. Allan Walters (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Nancy Fritz (D)
Rep. Butch Waddill (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Nina Roatch, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 416, 1/31/2001; HB 60,
1/31/2001
Executive Action: HB 60; HB 232

HEARING ON HB 416

Sponsor: REPRESENTATIVE CAROL JUNEAU, HD 85,
Glacier County and Blackfeet Indian Reservation

Proponents: Denise Juneau
Lynda Brannon, Indian Impact Schools and MASBO
Mike Jetty, MWIEA
Colleen Murphy, Mt-NASW
George Ochenski, Mt.-Wy. Tribal Leaders Council,
Chippewa-Cree Tribes,
Fort Peck Tribes
Gary Brown, Blackfeet Community College
Patricia Devereax, Blackfeet Community College
Wayne Buchanan, Board of Public Education
Bill Cooper, OPI
Joyce Scott, OCHE
Shawn White Wolf
Arlene Hannawalt, MGS LP
Alexander Good Rider
JoAnne Wagner
Jonathan Windy Boy, Chairman, Montana/Wyoming
Tribal Leaders Council

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE JUNEAU, HD 85, Browning, said that she had charts to hand out to each committee member. **EXHIBIT(edh29a01)** She wished to tell the committee why she feels the bill is so important. She believes that we all agree that a quality education is the key to economic development. We hear that often in the legislature. How many of the businesses that Montana is promoting will hire a person with an eighth grade education? Our state constitution guarantees each person equality of educational opportunities. Part of this equality is being offered the opportunity to finish a high school education and being able to have the choices of continuing one's education or choosing a world of work. This dream is not available for many of our Montana citizens. There is an extremely high rate of Indian students who do not complete high school in Montana's public schools. There have been studies and reports done on the Indian dropout. The Indian people make great master theses, baccalaureate theses, often solutions are another issue. In preparing for the bill she used the Fall OPI Report that is filed

by all the schools and she tracked the Indian student enrollment and graduation in the public schools. OPI put a lot of the information together for her and she appreciates their efforts. As you look through the statistics, remember she used only entering freshman students. She did not use seventh and eighth graders that drop out of school. There are a lot of kids who don't make it to the ninth grade. She went over the charts presented in Exhibit (1). The Indian population is not declining; it is growing. One of the things to ask as one is looking at the statistics is what is the loss of revenue to those schools because of the extreme dropout rate? What is the loss to the community, to that student and to that family? In addition to all the dropout statistics, there are statistics on the Native American FAIR caseloads in the handout also. The dropout rate goes hand-in-hand with the FAIR caseloads. There is no way to have economic growth in Indian communities or in the state of Montana until the dropout rate can be reduced and the Indian FAIR caseload rate can be reduced. She believes the bill is a solution. Some kind of action must be taken. To allow this situation to continue to happen without offering workable solutions is ethically, morally and educationally wrong. What she proposes in **HB 416** is to allow public schools the option, not required, to develop agreements with their local colleges, including tribal colleges, to set up a GED program for students up to the age of 22 and be able to count these students as part of their regular school budgeting process. Schools can already offer GED as an allowable option and they can already count the kids for ANB. All the bill would do is let them continue to do that up to the age of 22. It would allow the schools to set up a local agreement with their tribal college or community college. It is vital in the reservation and small communities to tie our resources together and seek solutions. Tribal colleges and community colleges would be a great environment for the students being talked about. They would have role models around them. They would have exposure to an educational environment that would offer them alternatives for higher education as well as vocational education. They probably would be going to school with their older relatives who can help encourage them. There is nothing stronger than having your aunt or your uncle keep an eye on you and advise you. That is a strong part of Indian tradition. This could develop into a wonderful collaborative effort between the schools, colleges and TANF Program. It could develop opportunities for a young, single parent who is on welfare. There are many young people between the ages of 15 and 22 who have dropped out of school and this would be an opportunity for them to get a GED. Getting a GED is not the easy way out of a student's problem. In fact, it can be very difficult. Seniors in high school do not have to pass a test similar to the GED test.

Proponents' Testimony:

Kim Gillan, HD 11, said she stands in support for **HB 416**. If there is a greater graduation rate on the reservations, then there is a better chance of employment for the graduates.

Bill Cooper, OPI, said that the **SPONSOR** has painted for the committee an accurate, but disturbing, picture. She offers the bill as a way to begin to make a difference in the lives of individual students and in the lives of their communities. He sees the bill as having two separate parts. It will provide an alternative for students who are in need of an alternative educational program and for districts that do not feel capable of providing that alternative education. OPI supports the bill. The second part of the bill talks about raising the age where a school would qualify for ANB. OPI supported **HB 32**, which was similar to this bill, and they support this bill for the same reasons.

Lynda Bannon, Indian Impact Schools, MASBO, said this bill allows school districts to reach a group of kids that they haven't been able to reach before. This bill is a mechanism that would allow schools to enter into an agreement with another school district to provide services to these kids. This bill is good for kids and the economy. It gives the districts more flexibility. It gives more local ways to help these young adults.

Wayne Buchanan, BPE, said, as a state and a nation, we have made a commitment to publicly educate our children and we think it is important. When you look at the kind of money we spend on this effort, you know the depth of that commitment. That commitment goes to educating everyone as best we can. This bill reaches students that we haven't reached in another way and we need to be able to get to those students, as well. We favor educated students over people who are uneducated. This bill is another mechanism the state can use to reach those students who, for one reason or another, we haven't been able to reach before.

Denise Juneau stated that she is the Indian Education Specialist at OPI. She is on leave and speaking as a private citizen. She is a role member of Hidatsa Mandan Nations of North Dakota and a descendant of the Blackfeet Nation of Montana. She grew up and graduated from school in Browning. She feels she received a quality education in Browning and the school system gave her a strong academic background continuing into higher education. She

graduated with BA in English from MSU-Bozeman and an MA degree in English from the Harvard Graduate School of Education. However, she has many friends who did not graduate from high school and have not had the opportunities she has had due to her education. She has many friends who dropped out and have received their GED and have become successful and role models. All of these groups dropped out, not because they weren't intelligent or talented, simply because they did not fit into the mold of schooling. There weren't any alternatives then and now many of their children are on the verge of dropping out and there still are no alternatives for them. Students need a feeling of self determination. If they don't have meaningfulness in the method of instruction that is responsive to them, they turn off, tune out and drop out, or they get pushed out and end up as, quote, "behavior problems." Kids don't come to school that way, we make them that way. The system has responsibility to be responsive to kids and also offer alternatives for success. We need to ask if the school is ready for the child instead of asking if the child is ready for school. This bill allows the schools the option to offer GED programs as an alternative avenue and it is one way to make the school ready for the child. This bill also allows schools to develop a plan for dropout retrieval which would encourage students to return to school in a way that is not threatening to their self esteem. The tribal colleges, in concert with local districts, can play an important role in sponsoring locally controlled GED programs for native youths. They can actively recruit dropouts and work with local high schools. This is one way of using all the community resources to create a successful education system. Many native students do well in school as evidence by 50% graduation rate, but some are not successful because of the obstacles put in front of them. As a general population Indians do have a high dropout rate, Indians do have low standardized achievement scores and irregular attendance. There can be a lot of numbers and graphs to show this trend, but it is also important to listen to the stories of the ones that do not make it or leave school with a bitter taste in their mouth and hidden injuries that do not show up in the numbers. These are the students that this bill intends to help succeed. Local schools in the state do collect data on dropouts, but rarely are strategies developed to help these marginal students. The bill is one strategy that will help. It does not answer all the questions. It is a start.

JoAnne White Wolf said she is an enrolled member of the Blackfeet Tribe and lives in Helena with her mother. She is sixteen years old and has not been to school for a year and a half. She can read. The reason she didn't want to go to Helena High was the teachers didn't know her needs and she couldn't relate to anyone. In order to get her high school diploma she has to leave her home. Getting her GED would make her a very proud person, but so

would earning her high school diploma. Either way, after she graduates, she is going to college. She wants to go to college with a diploma rather than a GED.

Patricia Lind Devereaux, Blackfeet Community College, Browning, said she is one of the statistics that has been talked about. She dropped out of school in the tenth grade. She presented written testimony. **EXHIBIT (edh29a02)**

Joyce Scott, Deputy Commissioner for the Office of Commissioner of Higher Education, said they are engaged in a number of initiatives, some in cooperation with OPI. These are designed to intervene in a way that will permit low income, first generation college students to stay in school through high school and then perhaps through that work in high school hope they have prepared themselves adequately for higher education. **HB 416** addresses, in an important way, those that we didn't catch in our education talent search. She recommends the bill for passage.

Mike Jetty, MWIEA, said they are in support the bill. He quoted Felix F. Cohen, considered the grandfather of Indian law. He said, "American Indians are similar to the miners' canary that the miners used to carry down into the mines." He considered the Indians to be litmus test for the political health of America as a whole. Felix F. Cohen said the treatment of the American Indian, even more so than our treatment of any other minority, represents the rise and fall in our democratic faith. If you take a look at the numbers and statistics on American Indians, they are leading in all the categories that one doesn't want to be leading in. He believes the bill speaks to some of these negative statistics.

Alexander GoodRider submitted written testimony. He is an enrolled member of the Blackfeet tribe and now attends Blackfeet Community College. He is a high school dropout and has earned his GED. **EXHIBIT (edh29a03)**

Gary Brown, Blackfeet Community College Instructor, said he is an enrolled active member of the Blackfeet tribe. He teaches English in the community college. He hears the word "hope" in his classroom from his students. They talk about it and write about it. **EXHIBIT (edh29a04) EXHIBIT (edh29a05)**

Colleen Murphy, Executive Director of the Montana Chapter of the National Association of Social Workers, said she had a current FAIM report to discuss with the committee. FAIM is a welfare reform program funded by TANF (Temporary Assistance for Needy Families). There was a random survey done of everyone who has ever been on FAIM. They sampled 1,090 families. Of the 1,090,

360 were Native Americans families. They looked at the education of people who were surveyed and those who attended some kind of education since they started FAIM. Twenty-three percent of those surveyed had attended GED classes in the populated areas of Montana. In the rural areas only 14% had attended GED classes and on the reservations 30% of those surveyed had attended GED classes. In the welfare program one seeks to give the participants a strength, something to build on, something they can continue to better their lives with. She encourages support for the bill.

Jonathan Windy Boy, Chairman, Montana/Wyoming Tribal Leaders Council, presented written testimony. **EXHIBIT (edh29a06)**

George Ochenski, Montana/Wyoming Tribal Leaders Council, Chippewa Tribes, Fort Peck Tribes, said he was presenting written testimony. **EXHIBIT (edh29a07)** **EXHIBIT (edh29a08)**

Eric Feaver, MEA-MFT, said **HB 416** is not substantially different from **REPRESENTATIVE FACEY's HB 265** which has already been heard in this committee. Both bills go down the same road. There are strong components in each bill. Both should be looked at when considering passage. This bill does not pertain only to Native American communities. It is important to note that it is much broader than that. It would and should establish closer relationships with school districts on and near our reservations, and maybe school districts that do not serve Native Americans. Community college is much broader than tribal college. The bill does not deal with just a GED and diploma. This bill is not going to address adults who are older than 22. There are appropriate safeguards in the bill. Instructional classes offered by the college must be approved by the local school district. The instruction given at the community college will be given by a certified teacher.

REPRESENTATIVE BIXBY said she wishes that the educational system could keep all of the children in school and that they would graduate. That's not the case. On her reservation they do have a tribal community college that offers a GED program as an option for students. They also require, as part of their general assistance program or TANF, the option of going back to school or going to work. They have older people taking advantage of the GED program. This is a local option.

Dana L. Pemberton, Browning, presented written testimony. **EXHIBIT (edh29a09)**

Opponents' Testimony: None

Questions from Committee Members and Responses:

REPRESENTATIVE MUSGROVE had a question for the **SPONSOR**. On page 8 of the instructional packet, there is a chart showing that Fort Belknap and Rocky Boy have approximately the same rate of success as what is called white schools. Why do they have that kind of success? The **SPONSOR** said there is a much smaller enrollment in the schools. In the Rocky Boy school there is an Indian administrator which offers very good leadership. They have various programs that offer good support to the students. In the Fort Belknap area there is also a small student body to target.

{Tape 1; Side : B}

REPRESENTATIVE MANGAN also had a question for the **SPONSOR**. He tried to keep the age of 22 in **REPRESENTATIVE LAWSON's** bill. He imagined that the age question will come up in this bill also. What will happen if the committee amends the bill to age 21? The **SPONSOR** said that she understands the concerns that were stated in the other bill, but if the age 21 is more acceptable, she will accept the change.

REPRESENTATIVE BRANAE asked the **SPONSOR** if there are other programs in place in the school that try to work with the students rather than going directly to the GED program? The **SPONSOR** said there are program throughout the state. Great Falls has an excellent alternative school and there are others. The **SPONSOR** worked with at-risk students in a program in Browning for a number of years. They had limited success in the program. **REPRESENTATIVE BRANAE** asked if this is another option, in addition to the programs already available. The **SPONSOR** said yes, the program she worked in looked at high school diplomas and were trying to take at-risk students in high school that were at risk of not graduating and students who had dropped out of school and bringing them back into the school for a diploma, not a GED. She sees the bill as an alternative the children who aren't going to receive or seek a diploma.

REPRESENTATIVE JACKSON asked the **SPONSOR** to elaborate on the programs offered in the colleges being talked about. Aside from receiving a GED, do students get training in courses that help them find a job? The **SPONSOR** said there are seven tribal colleges. There are three community colleges in the state and there are vocational schools serving areas throughout the state. She deferred the question to **Gary Brown**. The Blackfeet Community

College offers opportunities. Their GED recipients are renting space at the college and what is happening there is the students are seeing a great deal of opportunity. CDL training and vocational training are offered. GED students are encouraged to stay in the college and receive further training. **REPRESENTATIVE JACKSON** asked the **SPONSOR** if there was anything to stop students from leaving high school and then go into the GED program at the college. The **SPONSOR** said that could happen, but the students have that choice now.

REPRESENTATIVE PETERSON had a question for **Mr. Brown**. He asked if **Mr. Brown** could describe the GED program in Browning. How many people are in it, how many people succeed? **Mr. Brown** said their GED program comes from two sources. They work with the high school and Head Start Programs. In the next month they will be testing GED students and there are 35 students studying for the test. They try to meet everyone's needs. About 25% of his English students have a GED. **REPRESENTATIVE PETERSON** asked who is funding the program. **Mr. Brown** said it is the Head Start Program which is federally funded.

REPRESENTATIVE LAWSON asked the **SPONSOR** if she could have a fiscal note available before the committee takes executive action.

Closing by Sponsor:

REPRESENTATIVE JUNEAU stated she wished she could have brought a fiscal note. That is going to be an issue. She is not certain what the ANB will be, but is willing to pick a number of \$3,000 per student. If society can save two hundred kids through this program, wherever, \$3,000 is not much compared to the estimate of \$30,000 to keep a prisoner incarcerated. She would be happy to look at the similar bills and see if they can work out a bill to include the other bills.

HEARING ON HB 60

Sponsor: **REPRESENTATIVE ALAN OLSON, HD 8, Roundup**

Proponents: **Eric Feaver, MEA-MFT**
Joyce A. Scott, OCHE

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE OLSON, HD 8, Roundup, said he was presenting **HB 60** at the request of former **Governor Marc Racicot**, in order to establish a teacher's scholarship program for staff in shortage areas and shortage curricular areas. This came out of the governor's task force on teacher shortages and salaries. This is a bill he believes in, a bill he thought would be very beneficial to the state of Montana, and the state of education in this state. The committee knows where the bill will go when it comes to the floor. It is not included in the budget. He feels if the committee takes it to the floor it will disappear. He asked that the committee go into executive session on the bill immediately.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: None

REPRESENTATIVE GAY ANN MASOLO took over the duties of chairperson at this point in the meeting.

EXECUTIVE ACTION ON HB 60

REPRESENTATIVE OLSON moved that **HB 60 DO PASS**.

Motion/Vote: **REP. OLSON** moved that **HB 60 BE TABLED**. Motion passed 11-7 with **Bixby, Branae, Fritz, Galvin-Halcro, Jacobson, Mangan, and Musgrove** voting no.

REPRESENTATIVE MANGAN stated that he felt that once again the money situation that **REPRESENTATIVE JUNEAU** talked about has, in a sense, killed another bill brought forth by a representative on behalf of his constituents and all of Montana. He is extremely disappointed in the process this session that because of this perception of finances that we are not even getting a hearing on bills that may or may not be good for Montana. This bill was for the children of Montana. It is a sad situation.

EXECUTIVE ACTION ON HB 232

Motion: REP. LAWSON moved that HB 232 DO PASS.

Discussion:

REPRESENTATIVE LAWSON said there were no amendments but he would like to review the bill for the committee. This is an act to allow a school district to include all district personnel in a compensated absence liability fund. At present, non-teaching and administrative people are included in the fund and the bill is proposing to expand the fund to include both certified and classified staff. Keep in mind that a CALF will go to **HB 232** and on line 22, the maximum amount in a reserve fund established under the provisions in section 1 may not exceed 30% of the total school district liability for accumulated sick leave, which is normally 1/4 and total district liability for accumulated vacation leave. Remember, we are funding this with unspent general budget monies at the end of the year. When school districts have unspent general budget they can do one of three things. They can put it into the reserve up to some 10%. They can put it into their Compensated Absence Liability Fund. They can use it and count it as local effort in next year's budget. When the bill was heard, there was no fiscal note. The fiscal note is now available. **REPRESENTATIVE LAWSON** asked the committee to allow **Tom Bilodeau** to speak to the fiscal note.

Tom Bilodeau, MEA-MFT, said the fiscal note takes into account the fact that the teachers do not earn or accumulate vacation time. That was an issue previously. It made a significant difference in the initial estimate of potential cost for this bill. Another point that should be noted in the fiscal note is that currently 50% of all school districts do not participate in the existing CALF. That has also been factored into the fiscal note. He would estimate, that while the fiscal note does indicate potential CALF liability, the note may still overstate what actually will be experienced in the lay of the general fund or GTV cost to the state. The bill is entirely voluntary to the local school district board. It only puts unspent general fund budget money into CALF. It is expected by most in the educational community that as school district budgets grow tighter over time, you will see less unspent budget available to districts across the state. That is a fact fully recognized in the fiscal note at this point. It is \$960,000 for the biennium. This is a real investment, putting away monies to pay what are currently acknowledged as accrued liabilities, future liabilities for the district. It is money that will be spent. It is just a question of whether or not to budget for it.

REPRESENTATIVE OLSON stated it is an act allowing school districts to do this. Currently, if you have someone retire from the district, you have an obligation to pay them that part of their sick leave or in the case of a certified employee, which we already have the ability for CALF you are going to have to make up the money some place in the budget. You can't do a vacancy savings when your staffing needs are as short as they are in most rural schools in Montana. In his mind this is good business sense and he would urge a do pass.

REPRESENTATIVE LEHMAN said he had always been of the opinion that sick leave is designed for sick leave. Somewhere along the line, in the negotiation process many years ago, it became utilized as a tool for termination payment. He has a basic philosophical problem with that. He thinks sick leave is sick leave and vacation leave is vacation leave. If a person chooses not to utilize the sick leave, that's their choice. He disagrees with the philosophy that has accrued over the past several year, where it now has become a termination benefit. He will probably vote against the bill.

REPRESENTATIVE JACKSON stated that he has similar feelings as **REPRESENTATIVE LEHMAN**. He remembers when sick leave started out more as an insurance policy. When he transferred from school to school, he didn't think about the fact that the sick leave didn't go with him. He has noticed over the years that another thing has happened. Teachers do take sick leave when they are not sick. In one of his schools he arranged for the classroom teacher to receive a small bonus when he hadn't used sick leave during the year. It seemed to make them happy. He is not clear on how this item is handled by the school districts. The bill makes him wonder if the legislature is interfering with a negotiated process.

REPRESENTATIVE OLSON said in Roundup they carry money in the budget from year to year to handle payoff of sick leave. CALF would be set off separately and budget dollars would be used for what they were intended for.

REPRESENTATIVE ANDERSEN asked if this type of the fund was established, would you see that schools would maybe have a bit more money in their budget for teacher salary increases?

REPRESENTATIVE OLSON said no. **REPRESENTATIVE ANDERSEN** asked why?

REPRESENTATIVE OLSON said he didn't believe she was looking at dollar amounts for what is currently carried in budgets to handle a situation like this that would be enough to give out any kind of a meaningful increase in wages.

REPRESENTATIVE MANGAN stated that this is a good business practice. His business has a policy for paying part of the sick leave back to the employee. It is a way he uses to compete for good employees. It is part of the business world. It has been talked about attracting and retaining quality educators and accumulated sick leave pay might be one way of doing that. It is a widespread concept, whether one agrees with it or not.

REPRESENTATIVE GALVIN-HALCRO had a question for **REPRESENTATIVE OLSON**. If a teacher saved 180 sick leave days over a period of ten years, would that teacher be paid for all 180 days?

REPRESENTATIVE OLSON said it all depends on the negotiated agreement between the school district and the teachers. In his school district a teacher could accumulate 100 sick leave days and upon departure he would be paid for 25% of them. For an early retirement, his board negotiated paying more than 25% at times. **REPRESENTATIVE GALVIN-HALCRO** said that this is no windfall for a teacher who was frugal enough to save up a number of sick leave days.

REPRESENTATIVE LEHMAN said he wished to make it clear that he understands the 25%, which he believes is law for certified personnel, etc., and he understands offering it to teaching staff, his complaint is about the entire philosophy in general of sick leave evolving into a termination pay benefit, it doesn't make any difference whether the person is a teacher or an electrician.

REPRESENTATIVE MUSGROVE said he thinks, if the committee looks at it as a payout for sick leave, it is missing the point. In most instances it could be called a wellness incentive. The teacher is utilizing his time better in the classroom, rather than being sick. As a result, the teacher is being paid for being healthy and not sick. It is a preventive idea.

REPRESENTATIVE MASOLO said, when she first started teaching one couldn't accumulate sick leave. A teacher was allowed a certain number of days so she probably lost 100 days. All of a sudden a teacher could accumulate them. In all her years of teaching, there was only one teacher that abused sick leave. Most teachers came when they were sick and should be at home.

REPRESENTATIVE JACKSON said some schools offer a certain amount of personal leave and that squeezes the gap between people who want to be gone and they are not sick. He thinks they convert sick leave into personal leave. That is another option. He wonders if any schools do that? **Mr. Bilodeau** said there are schools that have two or three personal days leave and in about half of the contracts in the state, one or more of the personal

days are not paid days. There is only a handful of contracts in the state that allow any sort of accumulation of personal leave days. Very seldom are personal days tied to sick leave days.

REPRESENTATIVE LAWSON said the bill is good business.

Motion/Vote: REP. LAWSON moved that **HB 232 DO PASS. Motion carried 16-2 with Lehman and Walters voting no.**

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. GAY ANN MASOLO, Chairman

NINA ROATCH, Secretary

GM/NR

EXHIBIT (edh29aad)